

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

WP(C).No. 23791 of 2005(G)

PETITIONER:

H.YESUDAS, ACCOUNTS OFFICER (RTD),
DIRECTORATE OF COLLEGIATE EDUCATION,
RESIDING AT THIRUVONAM, KRISHNAPURAM,
NEYYATTINKARA, THIRUVANANTHAPURAM.

BY ADV. SRI.T.P.DAYANANTHAN
SRI.ARUN.B.VARGHESE

RESPONDENTS:

1. THE ACCOUNTANT GENERAL (A&E) KERALA,
THIRUVANANTHAPURAM.
2. THE DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER, SRI.R.LAKSHMINARAYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT. P1: COPY OF THE CREDIT CARDS IN THE YEAR 1996-97, 1997-98, 1998-99, 1999-2000, 2000-2001, 2001-02, 2002-03 AND 2003-04.
- EXT. P2: COPY OF THE FORM E UNDER RULE 43 OF THE G.P.F. RULES SUBMITTED TO THE 2ND RESPONDENT.
- EXT. P2(A): COPY OF THE CREDIT PARTICULARS FOR THE MONTH FROM 2/04 TO 5/04 OF THE PETITIONER ISSUED BY THE SUB TREASURY OFFICER, KOTTAYAM DT. 16.5.2004.
- EXT. P2(B): COPY OF THE CREDIT PARTICULARS FROM 6/04 TO 11/04 ISSUED BY THE SUB TREASURY OFFICER, TRIVANDRUM DT.18.3.2005.
- EXT. P3: COPY OF THE LETTER NO.J4-52150/05 DT. 21.3.2005 SENT BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT.
- EXT. P3(A): COPY OF THE G.P.F. STATEMENT DT. 22.12.2004 SIGNED BY PETITIONER.
- EXT. P3(B): COPY OF THE OPTION SUBMITTED TO THE 1ST RESPONDENT DATED 22.12.2004.
- EXT. P3(C): COPY OF THE DISCRIPTIVE IDENTIFICATION PARTICULARS OF THE PETITIONER SUBMITTED TOGETHER WITH THE CLOSURE APPLICATION OF G.P.F.
- EXT. P3(D): COPY OF THE DECLARATION DT. 22.12.2004 SIGNED BY PETITIONER.
- EXT. P4: COPY OF THE AUTHORISATION SLIP ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DT. 8.6.2005.
- EXT. P4(A): COPY OF THE LETTER NO.PF 19/CL-10/05-06/170/769 DATED 8.6.2005.

/TRUE COPY/

P.A. TO JUDGE

JP

K.BALAKRISHNAN NAIR, J.

Writ Petition (C) NO.23791 OF 2005-G

Judgment

The petitioner retired from the Directorate of Collegiate Education while working as Accounts Officer on 31.05.2005. He was a subscriber to the General provident Fund and his Account Number was Coll 3274. At the time of retirement, a total amount of Rs.2,20,732/- was outstanding in his account. He moved for closure of the account and release of the amount. While so, he was served with Ext.P4 communication, finally settling his account and showing the amount payable to him as Rs.6,747/-. It was accompanied by Ext.P4(a) communication stating the reason for the reduction of the amount. Ext.P4(a) would show that an excess amount of Rs.20/- was added in excess of the closing balance for the year 1991. Further, while carrying forward the closing balance of Rs.20,313/- from 1991-92 to 1992-93, the opening balance was wrongly written as Rs.80,313/- instead of Rs.20,313/-. The same resulted in an addition of Rs.60,000/- in the opening balance of 1992-93. The cumulative interest for the said amount was also added in the account. When the mistake was noticed, the above amount with the cumulative interest added thereon,

was deducted from his PF amount. So, actually, the petitioner is entitled to get only Rs.6,747/-. This Writ Petition is filed, challenging Exts.P4 and P4(a). According to the petitioner, the deduction from the PF account after his retirement, especially, even after the lapse of three months from the date of retirement is clearly illegal and unauthorised.

2. The first respondent has filed a counter affidavit stating that when the account of the petitioner was finally settled, the entries were verified and the clerical mistakes were noticed. The rectification of the same resulted in the deduction of the amount payable to the petitioner, it is submitted.

3. The learned counsel for the petitioner, relying on the decision of the Apex Court in **Gorakhpur University v. Dr.Shitla Prasad Nagendra** (2001) 6 SCC 591) submitted that the deduction from the provident fund is impermissible. It was a case, where attempt was made to recover some amount due from an employee on other grounds from the pension and the provident fund amount. So, the Supreme Court interdicted the recovery. The said case has nothing to do with the facts of this case. By a clerical error, some amounts were wrongly credited in the PF Account of the petitioner. When it

was detected, the same was deducted. I find nothing illegal with Ext.P4 or Ext.P4(a) having regard to the above facts. Accordingly, the Writ Petition fails and it is dismissed.

28.09.2007

K.BALAKRISHNAN NAIR,JUDGE

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